

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2022

To reduce waste of fishery resources off Alaska by eliminating the catch of prohibited species, requiring full retention of economic discards and full utilization of processing waste, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 14 (legislative day, APRIL 11), 1994

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To reduce waste of fishery resources off Alaska by eliminating the catch of prohibited species, requiring full retention of economic discards and full utilization of processing waste, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “North Pacific Fishery  
5       Waste Reduction Act of 1994”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that:

1           (1) The conservation of fishery resources is the  
2           primary goal of this Act.

3           (2) Over 50 percent of all fish harvested in the  
4           United States are caught in the fisheries of the  
5           North Pacific and Bering Sea off Alaska, which are  
6           under the jurisdiction of the North Pacific Fishery  
7           Management Council.

8           (3) Economic discards and processing waste  
9           constitute an enormous loss to the public of the po-  
10          tential value of these fishery resources, and also pose  
11          a significant conservation problem.

12          (4) In some fisheries off Alaska more than 50  
13          percent of the target species caught are discarded  
14          because they are too large, too small, or of the  
15          wrong sex.

16          (5) In recent years, as much as one-half billion  
17          pounds of usable fish products per year have been  
18          wasted rather than processed in fisheries off Alaska.

19          (6) Economic discards and processing waste  
20          can be reduced through selective fishing practices,  
21          time/area closures and other fishery management  
22          techniques, and more efficient processing require-  
23          ments.

1           (7) More data is needed on the amount of eco-  
2       nomic discards and processing waste that are occur-  
3       ring in the commercial fisheries off Alaska.

4           (8) The commercial fishing industry and the  
5       North Pacific Fishery Management Council have  
6       begun to make needed adjustments to reduce eco-  
7       nomic discards and processing waste, and have  
8       shown a strong interest in promoting the long-term  
9       health of the fishery resources.

10          (9) Certain fisheries are comprised of numerous  
11       species. In such fisheries bycatch quotas are nec-  
12       essary to achieve the optimum yield in target fish-  
13       eries. The commercial fishing industry and the  
14       North Pacific Fishery Management Council should  
15       continue to dedicate substantial effort to create  
16       management regimes that permit, in a manner that  
17       prevents overfishing or the risk of overfishing and  
18       allows for the rebuilding of depleted stocks, the pros-  
19       ecution of such mixed-stock fisheries while reducing  
20       or eliminating economic discards, processing waste,  
21       bycatch, and the harvest of prohibited species.

22   **SEC. 3. PURPOSE.**

23       The purpose of this Act is to improve the conserva-  
24       tion and management of fishery resources off Alaska by—

1           (1) eliminating, to the maximum extent prac-  
2           ticable, the harvest of prohibited species, except by  
3           fishermen permitted under law to target those  
4           species;

5           (2) requiring the full retention of economic dis-  
6           cards and full utilization of processing waste;

7           (3) reducing the bycatch of nontarget species;

8           (4) rebuilding fish stocks that have been  
9           overfished or which are at risk of being overfished;  
10          and

11          (5) providing for improved observer coverage,  
12          cost recovery, emergency closure, entry notification,  
13          prohibited species caps, industry assistance, and  
14          other authority to enhance the ability of the Council  
15          to manage its fisheries.

16 **SEC. 4. WASTE REDUCTION IN NORTH PACIFIC FISHERIES.**

17          The Magnuson Fishery Conservation and Manage-  
18          ment Act (16 U.S.C. 1800 et seq.) is amended by adding  
19          at the end of title III the following new section:

20 **“SEC. 315. WASTE REDUCTION IN NORTH PACIFIC FISH-**  
21 **ERIES.**

22          “(a) GOALS.—The goals of this section are to im-  
23          prove the conservation and management of fishery re-  
24          sources off Alaska by—

1           “(1) eliminating, to the maximum extent prac-  
2           ticable, the harvest of prohibited species, except by  
3           fishermen permitted under law to target those  
4           species;

5           “(2) requiring the full retention of economic  
6           discards and full utilization of processing waste;

7           “(3) reducing the bycatch of nontarget species;  
8           and

9           “(4) rebuilding fish stocks that have been  
10          overfished or which are at risk of being overfished.

11          “(b) DEFINITIONS.—For the purposes of this sec-  
12          tion—

13               “(1) ‘bycatch’ means any fish species for which  
14               a quota is established, but which are not the target  
15               species of a fishery in which a fishing vessel is  
16               engaged;

17               “(2) ‘economic discards’ means fish which are  
18               the target or bycatch species in a fishery, but which  
19               are not retained by the fishing vessel harvesting  
20               those fish or are not processed by United States fish  
21               processors because they are the wrong size, the  
22               wrong sex, of poor quality, or for other economic  
23               reasons;

24               “(3) ‘processing waste’ means that portion of a  
25               fish which is processed and which could be used for

1 human consumption or other commercial use, but  
2 which is not so used; and

3 “(4) ‘prohibited species’ means fish for which a  
4 quota is set, but which fishermen are required by  
5 regulation to either (i) discard whenever caught, or  
6 (ii) retain but may not sell, in order to protect the  
7 value of another fishery.

8 “(c) REDUCTION OF WASTE.—

9 “(1) No later than January 1, 1996, the North  
10 Pacific Fishery Management Council shall include in  
11 each fishery management plan under its jurisdiction  
12 conservation and management measures, including  
13 fees or other incentives, to reduce economic discards,  
14 processing waste, prohibited species catch, and  
15 bycatch in each fishery. Notwithstanding section  
16 304(d), in implementing this subsection the Council  
17 may recommend, and the Secretary shall approve  
18 and implement any such recommendation, consistent  
19 with the other provisions of this Act, a system of  
20 fees to provide an incentive to reduce such discards  
21 and waste. Any such system of fees or incentives  
22 shall be fair and equitable to all fishermen and  
23 United States fish processors, and shall not have  
24 economic allocation as its sole purpose.

1           “(2) Not later than January 1, 1997, the North  
2       Pacific Fishery Management Council shall rec-  
3       ommend, and the Secretary shall approve and imple-  
4       ment any such recommendation, consistent with the  
5       other provisions of this Act, conservation and man-  
6       agement measures to ensure total catch measure-  
7       ment in each fishery under the Council’s jurisdic-  
8       tion. Such conservation and management measures  
9       shall ensure the accurate enumeration of target spe-  
10      cies, bycatch, and prohibited species.

11          “(3) Beginning on January 1, 1998, such in-  
12      centives shall include an allocation preference to  
13      fishing and processing practices within each gear  
14      group that result in the lowest levels of economic  
15      discards, prohibited species catch and bycatch. In  
16      determining which practices shall be given priority,  
17      the reduction of economic discards shall be given the  
18      greatest weight, followed by processing waste (where  
19      applicable), prohibited species catch and bycatch, in  
20      that order.

21          “(4) In determining the level of target species  
22      catch, bycatch, economic discards and processing  
23      waste, the Council and Secretary shall base such de-  
24      terminations on observer data or the best available  
25      information.

1           “(5) In the case of fisheries occurring under an  
2 individual fishing quota regime under the jurisdic-  
3 tion of the North Pacific Fishery Management  
4 Council after January 1, 1998,—

5           “(A) the Council shall designate target  
6 species, bycatch species, and prohibited species  
7 for each such fishery;

8           “(B) the Council may not recommend, and  
9 the Secretary may not approve, any assignment  
10 or allocation of individual fishing quotas for  
11 prohibited species or bycatch species for those  
12 fisheries, other than for each individual fishing  
13 season on an annual basis pursuant to subpara-  
14 graph (C) of this subsection; and

15           “(C) the allocation preference required  
16 under paragraph (2) shall be implemented by  
17 giving priority in the allocation of prohibited  
18 species quotas and bycatch quotas to fishing  
19 practices that result in the lowest levels of eco-  
20 nomic discards, processing waste, prohibited  
21 species and bycatch.

22           “(6) Nothing in this section shall be construed  
23 to preclude the North Pacific Fishery Management  
24 Council from allocating a portion of any quota for  
25 a directed fishery for use as bycatch in another fish-



1       ery or fisheries, if the Council determines such allo-  
2       cation is necessary to prosecute a fishery, after tak-  
3       ing into account the requirements of this section re-  
4       garding reduction of bycatch, economic discards and  
5       processing waste.

6       “(d) FULL RETENTION AND FULL UTILIZATION.—

7               “(1) The North Pacific Fishery Management  
8       Council shall, consistent with the other provisions of  
9       this Act, submit to the Secretary by January 1,  
10      1996, a plan to phase-in, to the maximum extent  
11      practicable, fishery management plan amendments  
12      to require full retention by fishing vessels and full  
13      utilization by United States fish processors of all  
14      fishery resources, except prohibited species, caught  
15      under the jurisdiction of such Council as soon as is  
16      practicable, but in no case later than January 1,  
17      2000.

18              “(2) The plan shall include conservation and  
19      management measures to minimize processing waste  
20      and ensure the optimum utilization to target species,  
21      including standards setting minimum percentages of  
22      target species harvest which must be processed for  
23      human consumption.

1           “(3) In determining the maximum extent prac-  
2           ticable, the North Pacific Fishery Management  
3           Council shall consider—

4                   “(A) the state of available technology;

5                   “(B) the extent to which species brought  
6           on board can be safely returned alive, with the  
7           expectation of extended survival, to the sea;

8                   “(C) the extent to which each species is  
9           fully utilized as a target species by United  
10          States fishermen;

11                  “(D) the impact of different processing  
12          practices on the price paid to fishermen and  
13          processors;

14                  “(E) the nature and economic costs of  
15          each specific fishery; and

16                  “(F) the effect of a full retention or full  
17          utilization requirement in a given fishery on  
18          other fisheries when compared with the bene-  
19          ficial effect of reducing economic discards and  
20          processing waste.

21           “(4) Notwithstanding section 304(d), the North  
22          Pacific Fishery Management Council may propose,  
23          and the Secretary shall approve and implement any  
24          such recommendation, consistent with the other pro-  
25          visions of this Act, a system of fines or other incen-

1       tives to implement this section. Any such fines or in-  
2       centive system shall be fair and equitable to all fish-  
3       ing vessels and United States fish processors, and  
4       shall not have economic allocation as its sole  
5       purpose.

6       “(e) PROHIBITED SPECIES.—

7               “(1) Prohibited species shall not be considered  
8       an economic discard for purposes of this section;  
9       however, the North Pacific Fishery Management  
10      Council shall seek to reduce the incidental catch of  
11      prohibited species to the maximum extent prac-  
12      ticable while allowing for the prosecution of fisheries  
13      under its jurisdiction.

14             “(2) Not later than January 1, 1996, the North  
15      Pacific Fishery Management Council shall propose,  
16      and the Secretary shall approve and implement any  
17      such recommendation, consistent with the other pro-  
18      visions of this Act, for each groundfish fishery under  
19      the Council’s jurisdiction, conservation and manage-  
20      ment measures to reduce the incidental harvest of  
21      prohibited species to the minimum level necessary to  
22      prosecute directed fisheries for designated target  
23      species, and to otherwise meet the requirements of  
24      this section. Notwithstanding section 304(d), such  
25      conservation and management measures may include

1 a system of fines, caps or other incentives to reduce  
2 the incidental harvest of prohibited species. Any sys-  
3 tem of fines or incentives under this section shall be  
4 fair and equitable to all fishing vessels and United  
5 States fish processors, and shall not have economic  
6 allocation as its sole purpose.

7 “(3) The North Pacific Fishery Management  
8 Council shall establish for each fishery which inci-  
9 dentally harvests a prohibited species under the  
10 Council’s jurisdiction cap which prevents such pro-  
11 hibited species from being overfished or from being  
12 placed in risk of being overfished. Upon reaching  
13 such cap, the commercial fishery in which such pro-  
14 hibited species is incidentally caught shall be closed  
15 for that season.

16 “(f) REBUILDING PLAN.—The North Pacific Fishery  
17 Management Council shall, by January 1, 1996, include  
18 in each fishery management plan under its jurisdiction a  
19 plan for rebuilding each fishery stock that the Council  
20 identifies as being overfished or at risk of overfishing.

21 “(g) OBSERVER PROGRAM.—

22 “(1) Beginning January 1, 1996, the North Pa-  
23 cific Fishery Management Council shall require  
24 under the authority granted to it by section 313—

1           “(A) 100 percent observer coverage on all  
2           fishing vessels which can safely accommodate  
3           an observer or observers, and at all United  
4           States fish processors, and

5           “(B) for vessels which cannot safely ac-  
6           commodate an observer, statistically reliable  
7           sampling of a fishing vessel’s effort in each  
8           fishery in which that fishing vessel participates,  
9           when such vessel or processor is fishing in a fishery  
10          under the North Pacific Fishery Management Coun-  
11          cil’s jurisdiction. In implementing subparagraph (A)  
12          the North Pacific Fishery Management Council shall  
13          require that more than one observer be stationed on  
14          a fishing vessel or at a United States fish processor  
15          whenever the Council determines that more than one  
16          such observer is necessary to accurately monitor that  
17          vessel or processor’s operation.

18          “(2) Observers stationed on fishing vessels or at  
19          United States fish processors under the authority of  
20          this section or section 313 shall be paid by the Sec-  
21          retary using funds deposited in the North Pacific  
22          Fishery Observer Fund. Such payment shall not  
23          make an observer an employee of the Federal Gov-  
24          ernment, unless such observer is otherwise employed  
25          by an agency of the United States.

1           “(3) Failure to pay the fee established by the  
2       North Pacific Fishery Management Council under  
3       section 313 shall be a considered a violation of sec-  
4       tion 307, punishable under section 308. Any fines  
5       collected pursuant to the authority granted by this  
6       subsection shall be deposited in the North Pacific  
7       Fishery Observer Fund account in the United States  
8       Treasury, and shall remain available until expended  
9       under the term of that fund.

10          “(4) Notwithstanding sections 304(d) and  
11       313(b), the Secretary is authorized to recover from  
12       vessels participating in a fishery under an individual  
13       fishing quota regime or other limited access program  
14       established by the North Pacific Fishery Manage-  
15       ment Council, the full cost of any observers sta-  
16       tioned on such vessel (including all costs for salaries,  
17       expenses, equipment, food and lodging, transpor-  
18       tation, insurance, and analysis of observer data, plus  
19       reasonable costs for training and administrative  
20       overhead). Each participant in an individual fishing  
21       quota regime shall only be required to contribute the  
22       same proportion of the costs as that participant’s  
23       quota shares represent to the total number of quota  
24       shares in such regime. The Secretary shall deposit  
25       any fees collected under this paragraph in the North

1 Pacific Fishery Observer Fund account in the  
2 United States Treasury.

3 “(h) EMERGENCY CLOSURE AUTHORITY.—The Sec-  
4 retary may, pursuant to guidelines established by the  
5 North Pacific Fishery Management Council in a fishery  
6 management plan, close or restrict a particular fishery  
7 covered by such fishery management plan in order to pre-  
8 vent overfishing, reduce bycatch, protect prohibited species  
9 or minimize economic discards. In exercising the emer-  
10 gency authority granted under this section, the Secretary  
11 shall not be required to provide an opportunity for notice  
12 and comment if such closure or restriction would not ex-  
13 ceed thirty days in duration.

14 “(i) NOTIFICATION OF ENTRY REQUIRED.—

15 “(1) The North Pacific Fishery Management  
16 Council shall submit to the Secretary by January  
17 31, 1995, a list of (A) all fishing technologies em-  
18 ployed in fisheries under such Council’s jurisdiction,  
19 by fishery, and (B) all fisheries under the jurisdic-  
20 tion of such Council. The Council may, as it deems  
21 appropriate, submit amendments to such list to the  
22 Secretary.

23 “(2) The Secretary shall publish such list or  
24 any amendments thereto, in the Federal Register

1 within fifteen days after receipt of the list or amend-  
2 ments described in paragraph (1).

3 “(3) Beginning on the date that is one hundred  
4 and eighty days after the date of the publication of  
5 the list required under paragraph (2), no person or  
6 vessel shall employ a fishing technology or engage in  
7 a fishery that is not included on the list published  
8 by the Secretary under this subsection without first  
9 giving one hundred and twenty days advance notice  
10 of the intent to employ such unlisted technology or  
11 engage in such unlisted fishery to the North Pacific  
12 Fishery Management Council. Such notice shall in-  
13 clude a detailed description, including drawings,  
14 maps or diagrams if appropriate, of the unlisted  
15 technology or unlisted fishery which such person or  
16 vessel seeks to employ or engage in.

17 “(4) The North Pacific Fishery Management  
18 Council may request, and the Secretary shall grant,  
19 an emergency rule under section 305(c), prohibiting  
20 any persons or vessels from employing an unlisted  
21 technology or engaging in an unlisted fishery if the  
22 Council determines that use of such technology or  
23 entry into such fishery would compromise the effec-  
24 tiveness of conservation and management efforts by  
25 the Council.



1           “(5) If, after receiving the notice required  
2           under paragraph (3), the North Pacific Fishery  
3           Management Council does not request emergency ac-  
4           tion by the Secretary under paragraph (4), the per-  
5           son or vessel submitting notice under paragraph (3)  
6           may, after the required one hundred and twenty day  
7           period has lapsed, employ the unlisted technology or  
8           enter the unlisted fishery to which such notice  
9           applies.

10           “(6) A violation of this subsection shall be con-  
11           sidered a violation of section 307, punishable under  
12           section 308.

13           “(j) INDUSTRY ASSISTANCE.—

14           “(1) The Secretary shall submit by January 1,  
15           1995 to the Committee on Commerce, Science, and  
16           Transportation of the Senate and the Committee on  
17           Merchant Marine and Fisheries of the House of  
18           Representatives a plan to develop jointly with indus-  
19           try accurate methods of weighing or determining the  
20           volume of fish harvested by United States fishing  
21           vessels in fisheries under the jurisdiction of the  
22           North Pacific Fishery Management Council. Such  
23           plan shall include methods for assessing contribu-  
24           tions from industry to fund such development, as  
25           well as recommendations from the Secretary con-

1 cerning the level of funds needed to successfully im-  
2 plement the plan in fiscal year 1996.

3 “(2) The Secretary shall submit by January 1,  
4 1995 to the Committee on Commerce, Science, and  
5 Transportation of the Senate and the Committee on  
6 Merchant Marine and Fisheries of the House of  
7 Representatives a plan to develop markets and har-  
8 vesting and processing techniques for arrowtooth  
9 flounder. The Secretary shall include in such plan  
10 recommendations concerning the level of funds need-  
11 ed to successfully implement the plan in fiscal year  
12 1996.

13 “(3) Notwithstanding any other provision of  
14 law, consortia of owners and operators of fishing  
15 vessels or fish processing facilities may apply for  
16 loan guarantees under the Fishing Vessel Obligation  
17 Guarantee program to finance the construction of  
18 processing waste reduction facilities onshore, the in-  
19 stallation of processing waste reduction technology  
20 on existing vessels, or the conversion of existing ves-  
21 sels for the carriage of fish waste and discards to  
22 processing waste reduction facilities. Such authority  
23 shall be without regard to the cumulative percentage  
24 of foreign ownership of companies within the consor-  
25 tium.

1           “(4) For fiscal years 1995, 1996, 1997, and  
2           1998, \$50,000 is authorized to be appropriated for  
3           the purposes of implementing paragraph (1), and  
4           \$250,000 is authorized to be appropriated for pro-  
5           grams to implement paragraph (2).”.

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